

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

EMMA JANE PROSPERO,

Plaintiff,

v.

DEPUTY RYAN SULLIVAN; LT.
LT. RUSSELL PRESCOTT; and
SHERIFF JAMES PROCTOR,
sued in their individual capacities,

Defendants.

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Civil Action No. 2:20-cv-110

**JOINT MOTION TO STAY DISCOVERY PENDING RESOLUTION OF
DEFENDANTS' MOTION TO DISMISS**

COME NOW Plaintiff Emma Jane Prospero ("Plaintiff"), Deputy Ryan Sullivan, Lt. Russell Prescott, and Sheriff James Proctor ("Defendants"), collectively "the Parties," by and through their counsel of record, and request that the Court enter a partial stay of discovery pending resolution of Defendants' motion to dismiss, as follows:

Relevant Procedural History

On March 22, 2021, Plaintiff moved to amend her complaint to add Sheriff Proctor as a defendant in order to assert a federal negligent hiring/retention claim against him in his individual capacity. *Dkt. No. 22*. Defendants opposed Plaintiff's motion and the parties briefed the issue extensively. *See Dkt. Nos. 31, 36, 39*. On March 24, 2021, Defendants filed a motion for judgment on the pleadings seeking dismissal of Plaintiff's Complaint and First Amended Complaint, which did not include Plaintiff's proposed negligent hiring/retention claim. *Dkt. No. 23*.

On April 5, 2021, the Parties filed a joint motion to extend the briefing schedule and partially stay discovery pending resolution of the motion for judgment on the pleadings. *Dkt. No.*

28. On April 14, 2021, this Court granted the Parties' joint motion to partially stay discovery. *Dkt. No. 30*. The discovery stay, with a few limited exceptions, stayed all discovery obligations and deadlines "pending the resolution of Defendants' motion for judgment on the pleadings." *Id.*

On September 8, 2021, a hearing was held on Plaintiff's motion to amend and Defendants' motion for judgment on the pleadings. *Dkt. No. 43*. This Court granted Plaintiff's motion to amend and ordered that Plaintiff file a consolidated second amended complaint. *Id.* This Court further held that Defendants' motion for judgment on the pleadings was now moot, but that the Defendants "may re-urge this motion once [the] amended complaint is filed." *Id.* Plaintiff's operable Second Amended Complaint was filed on October 4, 2021. *Dkt. No. 53*.

Defendants have now filed a motion to dismiss the Second Amended Complaint (*Dkt. No. 54*), and the Parties agree that discovery should be partially stayed pending the Court's ruling on Defendants' motion.¹ More specifically, the Parties agree that the following would be appropriate:

Proposed Stay

1. Discovery is stayed until the Court's ruling on Defendants' motion to dismiss, with one exception: the Parties ask that the issue of the scope of production of the Plaintiff's social media information be revisited by the Court, as contemplated by the Court's Order granting the previous partial stay of discovery. *Dkt. No. 30*. Resolution of this issue at this point will

¹ Defendants maintain that staying discovery pending the resolution of a dispositive motion is especially appropriate when, as here, qualified immunity from suit has been raised. *See Iqbal v. Dep't of Just.*, 2013 WL 3903642, at 1* (M.D. Fla. July 29, 2013) ("Particularly when a dispositive motion raises the issue of qualified immunity, it may be appropriate to stay discovery until resolution of that motion."); *Archer v. City of Winter Haven*, 2017 WL 4410165, at *1 (M.D. Fla. Oct. 4, 2017).

permit the Parties to timely move forward with discovery in the event that the Court denies, in whole or in part, Defendants' motion to dismiss.

2. If the Court denies Defendants' motion to dismiss in whole or in part:
 - a. Any remaining Defendants shall answer the Plaintiff's Second Amended Complaint within 14 days of the Court's order on the motion;
 - b. The Parties shall be allowed a period of 120 days to complete discovery, following the filing of Defendants' responsive pleadings; and
 - c. The Parties shall submit to the Court a jointly proposed scheduling order within 30 days from the date of the Court's order on the motion, and if they cannot agree on a proposal, they shall request a telephonic hearing with the Magistrate Judge.

Respectfully submitted this 21st day of October, 2021.

/s/ Clare R. Norins

Clare R. Norins

Georgia Bar No. 575364

cnorins@uga.edu

FIRST AMENDMENT CLINIC

University of Georgia School of Law

Post Office Box 388

Athens, Georgia 30603

(706) 542-1419 (phone)

(706) 227-5440 (fax)

Attorney for Plaintiff

BROWN, READDICK, BUMGARTNER,
CARTER, STRICKLAND, & WATKINS,
LLP

/s/ Bradley J. Watkins

Bradley J. Watkins

Georgia Bar No. 740299

bwatkins@brbcs.com

/s/ Amanda L. Szokoly
Amanda L. Szokoly
Georgia Bar No. 403412
aszokoly@brbcsw.com

Attorneys for Defendants